TJR
Docket No: 1102-00
26 May 2000

Dear ████████████

This is in reference to your application for correction of your
naval record pursuant to the provisions of Title 10, United
States Code, Section 1552.

A three-member panel of the Board for Correction of Naval
Records, sitting in executive session, considered your
application on 16 May 2000. Your allegations of error and
injustice were reviewed in accordance with administrative
regulations and procedures applicable to the proceedings of this
Board. Documentary material considered by the Board consisted of
your application, together with all material submitted in support
thereof, your naval record, and applicable statutes, regulations,
and policies.

After careful and conscientious consideration of the entire
record, the Board found the evidence submitted was insufficient
to establish the existence of probable material error or
injustice.

The Board found you enlisted in the Navy on 29 January 1959 at
the age of 17. Your record reflects that you served for nearly a
year without incident but on 1 December 1959 you were convicted
by summary court-martial (SCM) of wrongful appropriation of a
Navy vehicle, disobedience, and disrespect. You were sentenced
to restriction for 30 days and forfeitures totalling $15. On 6
August and 24 September 1960 you were convicted by SCM of missing
the movement of your ship and disobedience.

Your record further reflects that on 7 November 1961 you received
nonjudicial punishment (NJP) of fighting and were awarded
restriction for 14 days.

On 31 January 1962 you received NJP for a three day period of
unauthorized absence (UA) and were awarded restriction for two
weeks, which was suspended for six months. On 12 April 1962 you
were convicted by SCM of assault and drunk and disorderly
conduct. You were sentenced to hard labor for 45 days,
restriction for 60 days, forfeitures totalling $50, and reduction
to paygrade E-1.

Subsequently, your commanding officer recommended you be issued a general discharge by reason of unsuitability. However, on 11 June 1962, the discharge authority disapproved the foregoing recommendation and directed your commanding officer to process you for an administrative separation by reason of unfitness. On 19 July 1962 you were notified of pending separation action by reason of unfitness. At this time you waived your rights to consult with legal counsel and to submit a statement in rebuttal to the discharge. Your commanding officer recommended you be issued an other than honorable discharge by reason of unfitness. The discharge authority then directed your commanding officer to issue you an undesirable discharge, and on 14 January 1963 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and your contention that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your frequent misconduct which resulted in four court-martial convictions and four NJPs. Given all the circumstances of your case, the Board concluded the your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director